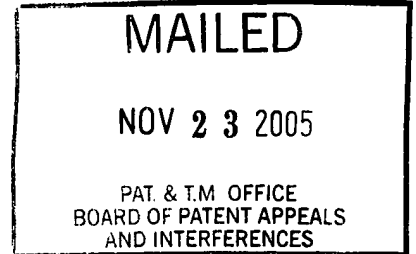


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTOPHER J. NACK

Application No. 09/261,030



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on October 18, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On November 5, 2003, the examiner has mailed an examiner's answer in response to the appeal brief filed September 2, 2003. A review of the file reveals that the (10) Grounds of Rejection (listing the statement of rejections) and (11) Response to Argument sections are missing in the examiner's answer. Before

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further review, the examiner must provide the missing headings by filing a substituted examiner's answer. Appropriate correction is required.

In addition, there is no indication in the examiner's answer that an appeal conference was held because the examiner's answer contains only the typed names of the conferees. No signature or initialing by all conferees is present such as for Examiners, Tremmel and McClellan. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner: 1) to file a substituted examiner's answer to enter the appropriate headings as stated above; 2) for proper indication on the examiner's answer that an appeal conference was held;

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3) notifying the appellant, in writing, that the appeal conference was held; and 4) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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